

JAN 30 2015

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

RICHARD H HARTMAN, II

Case No. 1:14CV243

Plaintiff

v.

CHARTER COMMUNICATIONS, INC.
ET AL.

Defendant(s)

**PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT**

Plaintiff Richard H. Hartman, pursuant to Local Rule LCvR 7.1(E), files this Reply to Defendant's Response to Plaintiff's Motion for Leave to File Amended Complaint, and states as follows:

In Defendants' Response to Plaintiff's Motion to Amend, Defendants' seem to have interpreted Plaintiff's brief as stating, "Plaintiff states that he offered Defendants the opportunity to substitute the newly proposed Defendant, Straight Forward of Wisconsin, Inc., for the current Defendants named in this lawsuit." *See* ECF Docket No. 13, at 1.

Contrary to Defendants' liberal paraphrasing of said brief, in the brief,

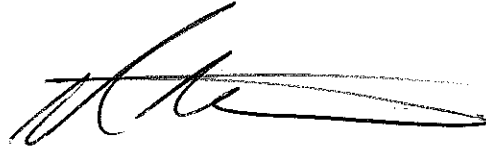
Plaintiff actually stated that prior to the instant action even being filed, in a related state court action, that he offered to substitute the proper entity responsible for the subject telephone calls if Defendant would identify that entity, but Defendant refused. *See* ECF Docket No. 12-1, at 1 and 2. *See also* Exhibit “A” – Email from Lee Pool, Counsel for Defendants to Rick Hartman, dated September 5, 2014.

Through discovery, Plaintiff has learned that, in addition to at least one of the Charter Defendants, Straight Forward of Wisconsin, Inc. is also responsible for the unlawful conduct alleged in the Complaint and Amended Complaint. Accordingly, Plaintiff seeks to amend the Complaint to add the additional defendant, rather than substitute the current Defendants, which Charter obviously feels would be a better outcome.

However, as Plaintiff offered in September of 2014, (see Exhibit “A”), if Defendants will identify the proper Charter entity in this action, Plaintiff will agree to release the remaining Charter Defendants from the lawsuit.

Dated: January 30, 2015

Respectfully Submitted,



Richard H. Hartman, II, Plaintiff
185A Weston Road
Arden, NC 28704
Email: rick@rickhartman.com
Telephone: 813-486-8287

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail on January 30, 2015 to Defendant c/o Samuel H. Poole, Jr., Cranfill, Sumner & Hartzog, LLP., Post Office Box 30787, Charlotte, NC 28230.



Richard H. Hartman, II

EXHIBIT

“A”

From: Lee Poole shp@cshlaw.com
Subject: RE: Hartman v. Charter Communications
Date: September 5, 2014 at 3:41 PM
To: RICK HARTMAN RICK68FL@YAHOO.COM
Cc: Lee Poole shp@cshlaw.com

I am not agreeing to a stipulation to substitute a party at this point. I just wanted to confirm what you were trying to accomplish. I will talk to my client.

Lee



CRANFILL SUMNER & HARTZOG ^{LLP}

Lee Poole
Attorney at Law

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F +17048315528

Post Office Box 30787
Charlotte, NC 28230

WWW.CSHLAW.COM

From: RICK HARTMAN [mailto:RICK68FL@YAHOO.COM]
Sent: Friday, September 05, 2014 3:00 PM
To: Lee Poole
Subject: Re: Hartman v. Charter Communications

Yes, a substitution of defendants would be fine, if you will stipulate to the correct one and accept service. All we are doing is wasting time and money by me pursuing the incorrect one, if that is in fact what is happening.

RICK HARTMAN

On Sep 5, 2014, at 2:43 PM, Lee Poole <shp@cshlaw.com> wrote:

I'll need to speak with my client. Are you suggesting a substitution of defendants? If not, what would be the basis for adding the new entity while also keeping the original entity?



CRANFILL SUMNER & HARTZOG ^{LLP}

Lee Poole

Attorney at Law

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Post Office Box 30787
Charlotte, NC 28230

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From: Rick H [<mailto:rick68fl@yahoo.com>]
Sent: Friday, September 05, 2014 1:21 PM
To: Lee Poole
Subject: Re: Hartman v. Charter Communications

Mr. Poole,

Will you stipulate that Charter Communications, Inc. is the proper defendant for the purpose of the amended complaint?

Thanks,
Rick Hartman

Sent from my iPhone

On Sep 5, 2014, at 8:54 AM, Lee Poole <shp@cshlaw.com> wrote:

M. Hartman,
I would need to see the proposed amended complaint before I could let you know whether I would consent. In response to your earlier e-mail about service, I would prefer to follow the rules of civil procedure at this point. I am operating under the assumption that you are an attorney. If that is not correct, please let me know.
Lee



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From: Rick Hartman [<mailto:rick@rickhartman.com>]
Sent: Thursday, September 04, 2014 12:00 PM
To: Lee Poole
Cc: rick@rickhartman.com
Subject: Hartman v. Charter Communications

Mr. Poole,

I will be amending my complaint to add Charter Communications, Inc. as a defendant, and to include violations of North Carolina General Statute 75-102 as an additional cause of action. ,

Will you agree to a consent order for the motion to amend the complaint?

Also, will you agree to accept service on behalf of Charter Communications, Inc.?

Thank you.

Rick Hartman

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